# STATE OF ARIZONA FILED

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## STATE OF ARIZONA

In the Matter of:

**PULSIPHER, KENNETH TOBY** (National Producer Number 7616885)

and

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**AVIATION MANAGEMENT & INSURANCE, LLC** (National Producer Number 16954499)

Respondents.

No. 19A-153-INS

DEPARTMENT OF INSURANCE

**CONSENT ORDER** 

The State of Arizona Department of Insurance ("Department") has received evidence that Kenneth Toby Pulsipher ("Pulsipher") and Aviation Management & Insurance, LLC ("Aviation") violated provisions of Title 20, Arizona Revised Statutes ("A.R.S."). Respondents wish to resolve this matter without the commencement of formal proceedings, admit the following Findings of Fact are true and consent to entry of the following Conclusions of Law and Order.

#### FINDINGS OF FACT

1. Pulsipher was, at all material times, licensed as an Arizona resident life, accident and health or sickness, casualty, and property insurance producer. The Department renewed Pulsipher's license, number 7616885<sup>1</sup>, on March 1, 2017. The license is scheduled to expire on February 21, 2021.

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<sup>&</sup>lt;sup>1</sup> The Department initially issued Pulsipher license number 168518, now known as the Legacy ID number, on January 7, 2004.

<sup>1</sup> Aviation's Legacy ID Number is 1072457 which was initially issued on May 6, 2013.

- 2. Pulsipher's addresses of record are: 325 South Higley Road, Gilbert, Arizona 85296-4311 (business); PO Box 602, Higley, Arizona 85236-0602 (mailing); toby@insurepiper.com (business email).
- 3. Aviation is, and was at all material times, an Arizona business entity licensed as a resident life, accident and health or sickness, casualty, and property insurance producer. The Department renewed Aviation's license, number 1800010859<sup>1</sup>, on June 1, 2017. The license is scheduled to expire on May 31, 2021.
- 4. Aviation's addresses of record are: 1725 East Ryan Road #5, Chandler, Arizona 85286 (business and mailing) and <a href="mailto:toby@insurepilots.com">toby@insurepilots.com</a> (business e-mail).
- Pulsipher is the sole Member and Designated Responsible Licensed Producer of Aviation.

# **QBE Insurance Company Complaint**

- 6. On or about November 16, 2017, QBE Insurance Company ("QBE") submitted a "Termination for Cause" letter ("complaint") for Pulsipher and Aviation.
- 7. Per the complaint, Pulsipher received insurance premiums from consumers but did not forward these premiums to QBE which resulted in a substantial deficit of funds owed to QBE.
- 8. The complaint also referenced consumer Marc Rougee ("Rougee") was owed a partial refund of his annual insurance premium which was not applied to the QBE policy by Pulsipher.

 9. On or about August 13, 2019, the Department conducted an Examination Under Oath ("EUO") with Pulsipher who confirmed QBE's complaint by admitting culpability in receiving monthly premiums and not forwarding them to the insurance company.

- 10. Pulsipher stated he has since paid all outstanding premiums which QBE confirmed.
- 11. Pulsipher further acknowledges Rougee is owed a partial premium refund from a2017 insurance policy totaling \$693.
- 12. On or about September 10, 2019, Pulsipher paid this refund to Rougee which was confirmed by the Department.

### **CONCLUSIONS OF LAW**

- 1. The Director ("Director") has jurisdiction over this matter.
- 2. Respondents' conduct, as described above, constitutes improperly withholding, misappropriating or converting any monies or property received in the course of doing insurance business, within the meaning of A.R.S. § 20-295(A)(4).
- 3. Respondents' conduct, as described above, constitutes using fraudulent and dishonest practices, and demonstrating incompetence, untrustworthiness and financial irresponsibility in the conduct of business in this state or elsewhere, within the meaning of A.R.S. § 20-295(A)(8).
- 4. Grounds exist for the Director to deny, suspend for not more than twelve months, revoke, or refuse to renew the insurance producer's license pursuant to A.R.S. § 20-295(A) and (B).

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#### **ORDER**

#### IT IS HEREBY ORDERED THAT:

- The insurance producer license of **Kenneth Toby Pulsipher**, National Producer License Number 7616885, is suspended for sixty days from November 2, 2019 through December 31, 2019.
- 2. The insurance producer license for Aviation Management & Insurance LLC, National Producer Number 16954499, is revoked, effective November 2, 2019.

DATED AND EFFECTIVE this 23rd day of Odobey, 2019.

ÆEITH A. SCHRAAD Director of Insurance

# CONSENT TO ORDER

- 1. Respondents have reviewed the foregoing Findings of Fact, Conclusions of Law and Order.
- 2. Respondents admit the jurisdiction of the Director of Insurance, State of Arizona, and admit the foregoing Findings of Fact and consent to the entry of the foregoing Conclusions of Law and Order.
- 3. Respondents are aware of their right to notice and to a hearing, at which they may be represented by counsel, present evidence and examine witnesses. Respondents irrevocably waive their right to such notice and hearing and to any court appeals relating to this Consent Order.

- 4. Respondents state that no promise of any kind or nature whatsoever, except as expressly contained in this Consent Order, were made to them to induce them to enter into this Consent Order and that they have entered into this Consent Order voluntarily.
- 5. Respondents acknowledge that the acceptance of this Consent Order by the Director is solely to settle this matter against them and does not preclude any other agency. officer, or subdivision of this state including the Department from instituting civil or criminal proceedings as may be appropriate now or in the future.
- 6. Respondents acknowledge that this Consent Order is an administrative action the Department will report to the National Association of Insurance Commissioners ("NAIC") and that they may have to report this administrative action on any future licensing applications either to the Department or other states' Departments of Insurance.
- 7. Kenneth Toby Pulsipher represents that he is the sole member of Aviation Management & Insurance Services, LLC and, as such, is authorized to enter into this Consent Order on its behalf.

Toby Pulsipher, (NPN License No. 7616885)

Aviation Management & Insurance Services, LLC (NPN License No. 16954499)

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COPY of the foregoing mailed/delivered

this a5 day of October, 2019, to:

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1	Kenneth Toby Pulsipher 325 S Higley Rd, Ste /00
2	Gilbert, AZ 85296-4311 Respondent
3	Kenneth Toby Pulsipher
4	PO Box 602 Gilbert, AZ 85236-0602
5	Respondent
6	Aviation Management & Insurance, LLC 1725 E Ryan Rd #5
7	Chandler, AZ 85286
8	Respondent
9	Aviation Management & Insurance, LLC c/o Kenneth Toby Pulsipher PO Box 602
10	Gilbert, AZ 85236-0602 Statutory Agent for Respondent Aviation Managert & Insurance, LLC
11	
12	COPY of the foregoing delivered, same date, to:
13	Mary Kosinski, Regulatory Legal Affairs Officer Catherine M. O'Neil, Consumer Legal Affairs Officer
14	Steven Fromholtz, Assistant Director, Consumer Protection Division Sharyn Kerr, Administrative Assistant, Consumer Protection Division
15	Aqueelah Currie, Licensing Supervisor Jeff Eavenson, Investigator
16	Arizona Department of Insurance 100 N. 15 <sup>th</sup> Avenue, Suite 102
17	Phoenix, Arizona 85007-2624
18	COPY sent same date via electronic mail to:
19	Kenneth Toby Pulsipher toby@insurepiper.com
20	
21	Aviation Manager & Insurance, LLC toby@insurepilots.com
22	All Meanl for
23	Francine Martinez